

State of Arizona
Senate
Fiftieth Legislature
Second Regular Session
2012

SENATE BILL 1118

AN ACT

AMENDING TITLE 37, CHAPTER 2.1, ARTICLE 1, ARIZONA REVISED STATUTES, BY
ADDING SECTION 37-625; AMENDING SECTION 41-511.23, ARIZONA REVISED STATUTES;
MAKING AN APPROPRIATION; RELATING TO HISTORICAL AND CULTURAL RESOURCES AND
FOREST RESTORATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 37, chapter 2.1, article 1, Arizona Revised Statutes,
3 is amended by adding section 37-625, to read:

4 37-625. Forest restoration and treatment

5 A. THE STATE FORESTER SHALL USE MONIES AVAILABLE IN THE FOREST
6 RESTORATION AND TREATMENT FUND PURSUANT TO SECTION 41-511.23, SUBSECTION C,
7 PARAGRAPH 3 FOR THE PURPOSES DESCRIBED IN THIS SECTION.

8 B. THE STATE FORESTER SHALL IDENTIFY HIGH PRIORITY FOREST AND WOODLAND
9 AREAS FOR RESTORATION AND TREATMENT TO PROTECT COMMUNITIES, INFRASTRUCTURE
10 AND NATURAL RESOURCES FROM CATASTROPHIC WILDFIRE AND TO RESTORE FOREST
11 HEALTH. THESE AREAS SHALL BE IDENTIFIED USING THE 2010 ARIZONA STATE FOREST
12 RESOURCE ASSESSMENT AND STRATEGY, APPROVED COMMUNITY WILDFIRE PROTECTION
13 PLANS AND FEDERAL, STATE AND LOCAL LAND MANAGEMENT PLANS THAT DESCRIBE
14 PRIORITY LANDSCAPES. THE STATE FORESTER SHALL CONSULT WITH ANY FOREST HEALTH
15 COUNCIL ESTABLISHED BY THE GOVERNOR AND LOCAL FORESTRY GROUPS IN VERIFYING
16 PRIORITY LANDS SUITABLE FOR RESTORATION AND TREATMENT.

17 C. RESTORATION TREATMENTS MAY INCLUDE DEVELOPING FUEL BREAKS,
18 MECHANICAL AND HAND THINNING, PRESCRIBED BURNING, WATERSHED RESTORATION,
19 FOREST INSECT AND DISEASE OUTBREAK PREVENTION, INVASIVE WEED CONTROL AND
20 TREATMENT MONITORING.

21 D. THE STATE FORESTER MAY USE MONIES FROM THE FOREST RESTORATION AND
22 TREATMENT FUND FOR TREATMENT OF ANY HIGH PRIORITY FOREST AND WOODLANDS IN
23 THIS STATE, INCLUDING FEDERAL, TRIBAL, STATE AND PRIVATELY OWNED LANDS, USING
24 STATE FORESTRY PERSONNEL, STATE INMATE FIREFIGHTING CREWS, LOCAL GOVERNMENT
25 EMPLOYEES AND PRIVATE CONTRACTORS.

26 E. THE STATE FORESTER MAY DEDICATE UP TO ONE MILLION FIVE HUNDRED
27 THOUSAND DOLLARS FROM THE FUND EACH YEAR TO PRE-POSITION EQUIPMENT, AIRCRAFT
28 AND OTHER FIRE SUPPRESSION RESOURCES TO PROVIDE FOR ENHANCED INITIAL ATTACK
29 ON WILDLAND FIRES IN HIGH FIRE DANGER ZONES.

30 F. THE STATE FORESTER MAY USE MONIES FROM THE FUND TO AWARD COST-SHARE
31 GRANTS TO COOPERATING GOVERNMENTAL AGENCIES OR QUALIFIED NONPROFIT
32 ORGANIZATIONS FOR RESTORATION TREATMENTS ON PRIORITY LANDS. THE STATE
33 FORESTER SHALL REQUIRE THAT EACH GRANT AWARDED UNDER THIS SUBSECTION INCLUDE
34 FINANCIAL PARTICIPATION FROM THE GRANTEE, THROUGH CASH OR IN-KIND
35 CONTRIBUTIONS, THAT EQUALS AT LEAST ONE-FOURTH OF THE AMOUNT GRANTED FROM THE
36 FUND.

37 Sec. 2. Section 41-511.23, Arizona Revised Statutes, is amended to
38 read:

39 41-511.23. Land conservation fund; livestock and crop
40 conservation fund; centennial fund for state
41 historical and cultural resources; forest
42 restoration and treatment fund

43 ~~A. The conservation acquisition board is established, as an advisory~~
44 ~~body to the Arizona state parks board, consisting of the following members~~

1 ~~who are appointed by the governor, at least one of whom shall be experienced~~
2 ~~in soliciting money from private sources:~~

3 ~~1. One state land lessee.~~

4 ~~2. One member who is qualified by experience in managing large~~
5 ~~holdings of private land for income production or conservation purposes.~~

6 ~~3. One member of the state bar of Arizona who is experienced in the~~
7 ~~practice of private real estate law.~~

8 ~~4. One real estate appraiser who is licensed or certified under title~~
9 ~~32, chapter 36.~~

10 ~~5. One member who is qualified by experience in marketing real estate.~~

11 ~~6. One representative of a conservation organization.~~

12 ~~7. One representative of a state public educational institution.~~

13 ~~B. The governor shall designate a presiding member of the board. The~~
14 ~~term of office is five years except that initial members shall assign~~
15 ~~themselves by lot to terms of one, two, three, two members for four and two~~
16 ~~members for five years in office.~~

17 ~~C. The conservation acquisition board shall:~~

18 ~~1. Solicit donations to the conservation donation account.~~

19 ~~2. Consult with entities such as private land trusts, state land~~
20 ~~lessees, the state land department, the Arizona state parks board and others~~
21 ~~to identify conservation areas that are reclassified pursuant to section~~
22 ~~37-312 and that are suitable for funding.~~

23 ~~3. Recommend to the Arizona state parks board appropriate grants from~~
24 ~~the land conservation fund.~~

25 ~~D.~~ A. The land conservation fund is established consisting of the
26 following accounts:

27 1. The conservation donation account consisting of monies received as
28 donations. ~~Donations to the account are subject to any lawful conditions the~~
29 ~~donor may prescribe, including any conditions on the use of the money or~~
30 ~~reversion to the donor. Monies in the account are exempt from the provisions~~
31 ~~of section 35-190 relating to lapsing of appropriations.~~

32 2. The public conservation account consisting of monies appropriated
33 to the account from the state general fund ~~and monies from any other~~
34 ~~designated source. In fiscal years 2000-2001 through 2010-2011, the sum of~~
35 ~~twenty million dollars is appropriated each fiscal year from the state~~
36 ~~general fund to the public conservation account in the land conservation fund~~
37 ~~for the purposes of this section. Monies in the account are appropriated for~~
38 ~~the purposes of this section, and the Arizona state parks board may spend~~
39 ~~monies in the account without further legislative authorization. Each~~
40 ~~expenditure of monies from the public conservation account for purposes~~
41 ~~listed under subsection G, paragraph 2 of this section shall be matched by an~~
42 ~~equal expenditure of monies from the conservation donation account or from~~
43 ~~other private or governmental sources.~~

44 E. ~~If the legislature fails to appropriate monies to the public~~
45 ~~conservation account in a fiscal year, and if there are no other monies in~~

1 ~~the public conservation account, the Arizona state parks board may either~~
2 ~~grant nothing from the fund in that year or, on recommendation by the~~
3 ~~conservation acquisition board, may grant available monies in the~~
4 ~~conservation donation account for purposes authorized in subsection G of this~~
5 ~~section.~~

6 ~~F.~~ B. The monies in the fund are exempt from the provisions of
7 section 35-190 relating to lapsing of appropriations.

8 ~~G.~~ C. Monies in the ~~public conservation account, with matching monies~~
9 ~~from the conservation donation account, are appropriated~~ LAND CONSERVATION
10 FUND ARE ALLOCATED as follows:

11 1. ~~A total of~~ Two million dollars ~~each fiscal year~~ to the livestock
12 and crop conservation fund. The fund is established for the purposes of this
13 paragraph. Monies in the fund are continuously appropriated to the Arizona
14 department of agriculture for the exclusive purpose of granting monies to
15 individual landowners and grazing and agricultural lessees of state or
16 federal land who contract with the Arizona department of agriculture to
17 implement conservation based management alternatives using livestock or crop
18 production practices, or reduce livestock or crop production, to provide
19 wildlife habitat or other public benefits that preserve open space and for
20 administrative expenses as provided by this paragraph. The department shall
21 administer the fund. On notice from the director of the department, the
22 state treasurer shall invest and divest monies in the fund as provided by
23 section 35-313, and monies earned from investment shall be credited to the
24 fund. Monies in the fund are exempt from the provisions of section 35-190
25 relating to lapsing of appropriations. For the purposes of granting monies
26 from the fund pursuant to this paragraph, the department:

27 (a) Shall develop guidelines and criteria for implementation of this
28 program that shall include requiring as part of the application a letter
29 describing the intended use for the grant money.

30 (b) Shall give priority to lessees of state or federal land who reduce
31 livestock production to provide public benefits such as wildlife species
32 conservation or wildlife habitat.

33 (c) Shall not grant more than fifty per cent of the monies in the fund
34 with respect to land in one county in any fiscal year.

35 (d) Is exempt from chapter 6 of this title with respect to adopting
36 rules, except that the department shall provide for public notice and sixty
37 days for public comment on the annual grant guidelines and criteria,
38 including public hearings.

39 (e) Shall award all grants pursuant to chapter 24, article 1 of this
40 title.

41 (f) Shall require each grantee to submit to the department, within
42 twelve months after receiving the grant, a written report detailing how grant
43 monies were used to achieve the project described in the letter submitted as
44 part of the application. If the project is longer than one year, a written

1 report shall be submitted to the department on an annual basis until the
2 project is complete.

3 (g) May use not more than ten per cent of the monies appropriated to
4 the fund in any fiscal year for the purposes of administering the program.

5 (h) Shall prepare a report of the disposition of monies appropriated
6 to the fund each fiscal year and provide a copy of the report to the
7 governor, to the Arizona state parks board and to any person who requests a
8 copy.

9 ~~2. The remainder of the monies to the Arizona state parks board for
10 the exclusive purpose of granting monies to the state or any of its political
11 subdivisions, or to a nonprofit organization that is exempt from federal
12 income taxation under section 501(c) of the internal revenue code and that
13 has the purpose of preserving open space, for the following purposes only:~~

14 ~~(a) To purchase or lease state trust lands that are classified as
15 suitable for conservation purposes pursuant to title 37, chapter 2, article
16 4.2. A grant of money under this subdivision to a nonprofit organization is
17 conditioned on the organization providing reasonable public access to any
18 land that is wholly or partly purchased with that money. The organization
19 shall agree with the Arizona state parks board that it will impose a
20 restrictive covenant, running with the title to the land, granting such
21 access and providing for reversion to this state of any interest in the
22 property acquired with money granted under this subdivision on the failure to
23 comply with the terms of the covenant. The Arizona state parks board and the
24 state land commissioner have standing to either enforce the covenant or
25 recover the amount of the grant from the current owner, with interest from
26 the date the grant was awarded to the nonprofit organization.~~

27 ~~(b) To purchase the development rights of state trust lands throughout
28 this state under the following conditions:~~

29 ~~(i) The development rights shall be sold at public auction as provided
30 in section 37-258.01.~~

31 ~~(ii) The lessee of the state trust land at the time the development
32 rights are purchased shall be notified of the purchase in writing.~~

33 ~~(iii) The purchase of the development rights shall not result in
34 cancellation or modification of the current lease.~~

35 ~~(iv) The purchase of the development rights shall not affect the
36 existing lessee's current economic use of the land and rights pursuant to
37 title 37, chapter 2, article 4.2.~~

38 ~~(v) As a condition of the sale of the development rights, the
39 purchaser shall agree in perpetuity not to exercise the development rights
40 and that the land shall remain as open space.~~

41 ~~(vi) The state trust land shall retain any other rights and attributes
42 as prescribed by law at the time of the purchase.~~

43 ~~H. For the purposes of subsection G, paragraph 2 of this section:~~

44 ~~1. The Arizona state parks board shall not grant more than fifty per
45 cent of the monies with respect to land in one county in any fiscal year.~~

1 ~~2. A grant of money is valid for eighteen months and may be extended~~
2 ~~one time for twelve additional months if a required public auction has not~~
3 ~~been held.~~

4 ~~3. The Arizona state parks board may adopt rules to establish~~
5 ~~qualifications of nonprofit organizations for purposes of applying for and~~
6 ~~receiving money granted.~~

7 ~~4. The owner of property that is wholly or partly acquired with money~~
8 ~~granted shall not restrict or unreasonably limit access to private lands.~~
9 ~~Any sale of land with money granted shall include a condition requiring that~~
10 ~~permanent access to private lands be allowed.~~

11 2. TWENTY MILLION DOLLARS TO THE CENTENNIAL FUND FOR STATE HISTORICAL
12 AND CULTURAL RESOURCES. THE FUND IS ESTABLISHED FOR THE EXCLUSIVE PURPOSE OF
13 SUPPLANTING LOCAL GOVERNMENTAL ASSISTANCE, FUNDING VOLUNTEER COORDINATORS AND
14 SKILLED STAFF POSITIONS, PROVIDING FUNDING FOR DEFERRED AND CURRENT
15 MAINTENANCE AND CAPITAL IMPROVEMENT NEEDS OF THE ARIZONA STATE PARKS BOARD
16 AND OF THE PRESCOTT HISTORICAL SOCIETY ESTABLISHED BY CHAPTER 4.1, ARTICLE 2
17 OF THIS TITLE, INCLUDING MATCHING AVAILABLE MONIES AND GRANTS FROM FEDERAL,
18 STATE AND PRIVATE SOURCES FOR THAT PURPOSE. MONIES IN THE FUND ARE SUBJECT
19 TO ANNUAL APPROPRIATION. THE FUND MAY ALSO INCLUDE OTHER MONIES APPROPRIATED
20 FOR THAT PURPOSE, ANY FEDERAL MONIES AND GRANTS RECEIVED FOR THAT PURPOSE AND
21 MONIES FROM ANY OTHER SOURCE RECEIVED FOR THAT PURPOSE. THE ARIZONA STATE
22 PARKS BOARD SHALL ADMINISTER THE FUND. THE MONIES IN THE FUND SHALL BE
23 MANAGED AS FOLLOWS:

24 (a) THE STATE TREASURER SHALL ACCEPT, SEPARATELY ACCOUNT FOR AND HOLD,
25 MONIES IN THE FUND, WHICH SHALL NOT BE COMMINGLED WITH ANY OTHER MONIES IN
26 THE STATE TREASURY EXCEPT FOR INVESTMENT PURPOSES.

27 (b) ON NOTICE FROM THE ARIZONA STATE PARKS BOARD, THE STATE TREASURER
28 SHALL INVEST AND DIVEST MONIES IN THE FUND AS PROVIDED BY SECTION 35-313, AND
29 MONIES EARNED FROM INVESTMENT SHALL BE CREDITED TO THE FUND.

30 (c) MONIES IN THE FUND SHALL BE DISBURSED AS PROVIDED BY APPROPRIATION
31 EXCLUSIVELY FOR THE PURPOSES PRESCRIBED BY THIS PARAGRAPH.

32 (d) MONIES IN THE FUND ARE EXEMPT FROM THE PROVISIONS OF SECTION
33 35-190 RELATING TO LAPSING OF APPROPRIATIONS.

34 3. THE REMAINDER OF THE MONIES TO THE FOREST RESTORATION AND TREATMENT
35 FUND. THE FUND IS ESTABLISHED FOR THE EXCLUSIVE PURPOSE OF FUNDING FOREST
36 RESTORATION AND TREATMENT ACTIVITIES UNDER THE DIRECTION OF THE STATE
37 FORESTER AS PROVIDED BY SECTION 37-625, INCLUDING MATCHING AVAILABLE FEDERAL
38 MONIES AND GRANTS FOR THAT PURPOSE. THE FUND MAY ALSO INCLUDE OTHER MONIES
39 APPROPRIATED FOR THAT PURPOSE, ANY FEDERAL MONIES AND GRANTS RECEIVED FOR
40 THAT PURPOSE AND MONIES FROM ANY OTHER SOURCE RECEIVED FOR THAT PURPOSE. THE
41 MONIES IN THE FUND SHALL BE MANAGED AS FOLLOWS:

42 (a) THE STATE FORESTER SHALL ADMINISTER THE FUND AND MAY USE NOT MORE
43 THAN FIVE PER CENT OF THE ANNUAL EXPENDITURES FROM THE FUND FOR COSTS OF
44 ADMINISTERING THE FUND AND GRANTS PAID FROM THE FUND.

1 (b) THE STATE TREASURER SHALL ACCEPT, SEPARATELY ACCOUNT FOR AND HOLD,
2 MONIES IN THE FUND, WHICH SHALL NOT BE COMMINGLED WITH ANY OTHER MONIES IN
3 THE STATE TREASURY EXCEPT FOR INVESTMENT PURPOSES.

4 (c) ON NOTICE FROM THE STATE FORESTER, THE STATE TREASURER SHALL
5 INVEST AND DIVEST MONIES IN THE FUND AS PROVIDED BY SECTION 35-313, AND
6 MONIES EARNED FROM INVESTMENT SHALL BE CREDITED TO THE FUND.

7 (d) THE STATE FORESTER SHALL SPEND MONIES IN THE FUND, EXCLUSIVELY FOR
8 THE PURPOSES PRESCRIBED BY THIS PARAGRAPH, WITHOUT FURTHER LEGISLATIVE
9 AUTHORITY OR APPROPRIATION.

10 (e) MONIES IN THE FUND ARE EXEMPT FROM THE PROVISIONS OF SECTION
11 35-190 RELATING TO LAPSING OF APPROPRIATIONS.

12 ~~I. D. The Arizona state parks board shall administer the land~~
13 ~~conservation fund. On notice from the board, the state treasurer shall~~
14 ~~invest and divest monies in either account in the fund as provided by section~~
15 ~~35-313, and monies earned from investments shall be credited to a separate~~
16 ~~administration account to pay the board's expenses of administering the land~~
17 ~~conservation and acquisition program under subsection G, paragraph 2 of this~~
18 ~~section FUND, which shall not exceed five per cent of the amount deposited in~~
19 ~~the public conservation account in any fiscal year IN THE FUND or five~~
20 ~~hundred thousand dollars, whichever is less. Investment earnings in excess~~
21 ~~of five hundred thousand dollars are appropriated to the Arizona state parks~~
22 ~~board for the purpose of operating state parks.~~

23 ~~J. Members of the conservation acquisition board may be reimbursed for~~
24 ~~travel and lodging expenses and per diem subsistence allowances incurred~~
25 ~~while on public business for the board. Reimbursement amounts shall not~~
26 ~~exceed those allowed under title 38, chapter 4, article 2.~~

27 Sec. 3. Appropriation; Arizona state parks board; exemption
28 from lapsing

29 A. Notwithstanding section 41-511.23, subsection C, paragraph 2,
30 Arizona Revised Statutes, as amended by this act, the sum of \$20,000,000 is
31 appropriated from the centennial fund for state historical and cultural
32 resources in fiscal year 2011-2012 to the Arizona state parks board as
33 follows:

34 1. \$500,000 for distribution to the Prescott historical society, for
35 deferred maintenance or capital improvements at Sharlot Hall museum.

36 2. \$19,500,000 for deferred maintenance and capital improvements to
37 historic and cultural resources within the state parks system.

38 B. The appropriations made by this section are exempt from the
39 provisions of section 35-190, Arizona Revised Statutes, relating to lapsing
40 of appropriations.

41 Sec. 4. Emergency

42 This act is an emergency measure that is necessary to preserve the
43 public peace, health or safety and is operative immediately as provided by
44 law.